

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ELLORA'S CAVE PUBLISHING, INC.
and
JASMINE-JADE ENTERPRISES, LLC

Case No: 5:14-cv-02331

Plaintiffs,

v.

DEAR AUTHOR MEDIA NETWORK, LLC
and
JENNIFER GERRISH-LAMPE

Defendants.

DEFENDANT DEAR AUTHOR MEDIA NETWORK, LLC'S COUNTERCLAIM

I. INTRODUCTION

Plaintiff Ellora's Cave Publishing, Inc. ("Ellora") is a well-known romance novel publisher. After hearing rumors of problems with Ellora, co-Defendant Jennifer Gerrish-Lampe, an author, investigated these rumors and learned from multiple sources familiar with Ellora that it was engaging in questionable business practices and was undergoing difficult financial times. Lampe then published her findings in an article on the online blog *Dear Author*, owned and operated by Defendant Dear Author Media Network, LLC ("Dear Author"). The statements in Lampe's article were truthful and accurate, and she had no reason to doubt

the veracity of any of her sources. Additionally, Dear Author is immune from liability for the contents of Lampe's statements under the Communications Decency Act, 47 U.S.C. § 230. Despite knowing that there was nothing defamatory about the article, Ellora and Plaintiff Jasmine-Jade Enterprises, LLC ("Jasmine") filed suit against Dear Author and Lampe for libel and libel per se in Summit County, Ohio, and even sought preliminary injunctive relief.

Plaintiffs knew these claims were baseless from the outset. The only reason they filed the suit is because Lampe's article was giving them unwanted publicity and exposing their business practices, including their habit of not paying their authors, editors, and cover artists. The suit was intended to intimidate Ellora's authors, editors, and cover artists into silence, so that they would not dare to speak of their experiences with Ellora or attempt to recover money from Ellora that they were rightfully owed. The suit was not based on any meritorious legal argument, but was instead intended as a muzzle. This is a perversion of the civil litigation process that has cost Dear Author substantial harm in the form of attorneys' fees and costs to defend itself. This abuse of the civil litigation process cannot be tolerated.

II. JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a).
2. This Court is the appropriate venue for Defendants' counterclaims pursuant to 28 U.S.C. § 1391(b).

III. THE PARTIES

3. Dear Author Media Network, LLC is an Iowa limited liability company doing business in the State of Ohio.
4. Upon information and belief, Ellora's Cave Publishing, Inc. is an Ohio corporation with its principal place of business in Summit County, Ohio.
5. Upon information and belief, Jasmine Jade Enterprises, LLC is an Ohio limited liability company with its principal place of business located in Summit County, Ohio.

IV. FACTUAL ALLEGATIONS

6. On September 26, 2014, Ellora and Jasmine filed an action against Dear Author and co-Defendant Lampe for injunctive relief, libel, and libel per se in the Court of Common Pleas, Summit County, Ohio, Case No. CV-2014-09-4421 (the "State Court Action").
7. The suit was premised on statements made by Lampe that were published on the online blog *Dear Author*, which is owned and operated by Defendant Dear Author.
8. The statements complained of in Plaintiffs' Complaint include allegations that Ellora and Jasmine were engaged in the practice of not paying their authors.
9. All of Plaintiffs' claims are baseless as a matter of law, as the complained-of statements do not constitute actionable defamation and Dear Author is categorically immune from liability for the statements under the Communications Decency Act, 47 U.S.C. § 230.
10. Knowing that their claims were baseless, Ellora and Jasmine sued Dear Author in an attempt to silence criticisms of their business practices, and to intimidate other authors, editors, and cover artists with the purpose of deterring them from attempting to reclaim monies owed them by Ellora and Jasmine.

V. COUNT I: ABUSE OF PROCESS

11. Ellora and Jasmine brought the State Court Action to accomplish a purpose for which the civil litigation process was not designed.
12. This continued litigation has caused and will continue to cause Dear Author significant financial harm in the form of attorneys' fees and costs associated with the ongoing litigation.
13. Ellora and Jasmine have deliberately perverted this particular legal process for their own personal benefit, specifically, to intimidate other

authors, editors, and cover artists into silence so that they do not attempt to recover monies owed them by Ellora and Jasmine.

14. This perversion of the civil process is not an authorized goal for which the process was intended.
15. Ellora and Jasmine's actions are willful and wanton and are being committed with deliberate disregard for the integrity of the federal litigation process and the rights of Dear Author.

V. REQUEST FOR RELIEF

WHEREFORE, counterclaimant Dear Author respectfully requests the following relief:

- a. Compensatory damages in excess of \$75,000;
- b. Punitive damages in excess of \$225,000, or three times the amount of compensatory damages;
- c. Actual damages to fully reimburse Dear Author for the attorneys' fees and costs incurred in litigation against the causes of action in the State Court Action;
- d. Any and all attorneys' fees and costs associated with the litigation of this countersuit; and
- e. Any other relief that this Honorable Court deems necessary, just, and proper.

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Dated October 22, 2014

Respectfully Submitted,

s/ Victoria L. Serrani
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ATTORNEYS FOR DEFENDANT
Dear Author Media Network, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of October, 2014 a copy of the foregoing *Notice of Appearance* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Victoria L. Serrani
Counsel for Defendant